

REMARKS

The present communication is responsive to the Official Action mailed September 15, 2004. In the Official Action, the Examiner rejected all the claims pending in the application, namely, claims 1-23, on various grounds.

Claim 1 has been amended to now recite "sending notification of purchase authorization to the user node and merchant node such that the good or service is not provided until such notification is received by the merchant." Applicants respectfully submit that the amendment to claim 1 does not constitute the addition of new matter.

Claim 8 has been amended to incorporate the subject matter previously recited in claim 11. In particular, claim 8 now recites "wherein said network connection device is coupled to a communications network having a merchant node associated with a merchant of goods or services, a bank node associated with account information pertaining to the user and a clearinghouse node for managing communications received from the communication device." Applicants respectfully submit that the amendments to claim 8 do not constitute the addition of new matter.

Claim 11 has been cancelled.

Claim 18 has been amended to recite the subject matter previously included in claim 22. In particular, claim 18 now recites "sending settlement information from the clearinghouse node to the communication device, a bank server and a merchant server." Applicant's respectfully submit that the amendments to claim 18 do not constitute the addition of new matter.

Claim 22 has been cancelled.

The Examiner rejected claims 2 and 20 under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. In rejecting claims 2 and 20, the Examiner asserts that there is no support in the specification

for "a clearinghouse determining a discount for a consumer, when said consumer purchases goods and services." (Official Action, pg. 2.) In particular, the Examiner asserts "The Applicant's Specification teaches a bank offering lower rates to users [paragraph 0039] and a clearinghouse broadly determining fees [paragraph 0040]. Therefore, the subject matter of claims 2 and 20 are not supported by the Specification." (*Id.*) Applicants respectfully disagree with the Examiner's assertion and conclusions. Paragraph [0040] clearly states that the "clearinghouse 37 determines what discounts and fees are applicable." As such, applicants respectfully submit that there is ample support in the specification for the subject matter recited in claims 2 and 20.

The Examiner also rejected claims 1-7 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. (*Id.*, pg. 3) In this regard, the Examiner specifically objected to the use of conditional language, such as "in the event" or "if," in claims 1 and 2. Although applicants are not aware of any rule against the use of conditional language in claims and respectfully believe that the claims particularly point out and distinctly claim the subject matter which applicants regard as the invention, applicants have nonetheless amended claims 1 and 2 to clarify the claim language used. In particular, claim 1 has been amended to now recite "sending notification of purchase authorization to the user node and merchant node such that the good or service is not provided until such notification is received by the merchant." Claim 2 has been amended to now recite "recording purchases and reducing the cost of the good or service based on previous purchases of goods or services from other merchants by the user." Applicants respectfully submit that claims 1 and 2, as amended, particularly point out

distinctly claim the subject matter which applicants regard as the invention. Applicants also respectfully submits that claims 3 through 7 also meet all the requirements of 35 U.S.C §112, second paragraph.

The Examiner also rejected claims 1 and 2 under 35 U.S.C. §102(e) as being "clearly anticipated" by U.S. Patent No. 6,078,891 to Riordan, et al. ("*Riordan*"). In rejecting claim 1 as being anticipated by the *Riordan* reference, the Examiner asserts that "If the purchase is not authorized, *Riordan et al.* teach transmitting a denial message to the clearinghouse (column 6, lines 9-19)." Applicants respectfully submit that although *Riordan* may teach "transmitting a denial message to the clearinghouse," as is asserted by the Examiner, such a teaching does not anticipate claim 1. In particular, claim 1 cites "sending notification of purchase authorization to the user node and merchant node such that the good or service is not provided until such notification is received by the merchant." The *Riordan* reference does not teach sending notification to a user node. For at least this reason, the *Riordan* reference does not anticipate claim 1.

Inasmuch as claim 2 depends from claim 1, applicants respectfully submit that claim 2 is also not anticipated by *Riordan* for at least the foregoing reasons.

The Examiner rejected claim 8 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,279,112 to O'Toole Jr., et al. ("*O'Toole*"). Inasmuch as claim 8 has been amended to include the subject matter previously recited in claim 11, applicants respectfully submit that the Examiner's rejection of claim 8 as being anticipated by *O'Toole* is now moot.

The Examiner rejected claims 11 and 14 under 35 U.S.C. §103(a) as being unpatentable over *O'Toole* in view of *Riordan*. Specifically, the Examiner asserts that *O'Toole* teaches "a communication device comprising a processing unit, network

connection device and an agent (figure 1, item 10) . . . [and] a clearinghouse communicating software updates to an agent (column 9, lines 48-54)." (Official Action, pg. 7) The Examiner, however, admits that *O'Toole* does "not specifically recite the communication device coupled to a network comprising a merchant node, a users bank node and a clearinghouse node." (*Id.*) The Examiner however asserts that *Riordan* makes up for this deficiency in *O'Toole* by teaching a "communication device connected to a network with a merchant node (figure 3; column 4, lines 45-48), clearinghouse node (figure 1, item 115) and bank node (figure 1, item 165)." (*Id.*) The Examiner further asserts that *Riordan* "also teach a clearinghouse node interacting with a bank node for determining whether a user has sufficient funds for obtaining goods and services (Figures 1 and 3)." (*Id.*) Thus, the Examiner concludes it would have been obvious to one of ordinary skill in the art to combine the teachings of *O'Toole* and *Riordan* "in order to allow users to purchase goods and services obtained from a merchant ('891, figure 3)." (*Id.*)

Applicants respectfully traverse the Examiner's rejection of claims 11 and 14 under 35 U.S.C. §103(a) over *O'Toole* and *Riordan*. Specifically, applicants respectfully submit that the *Riordan* reference does not teach a merchant node separate from a clearinghouse node. The Examiner points to FIG. 3 and column 4, lines 45-48 of the *Riordan* reference as teaching or disclosing a merchant node. FIG. 3, however, is nothing more than a flowchart illustrating the operation of FIG. 1. (*Riordan*, col. 4, lns. 25-29; col. 2, lns. 45-46). FIG. 1 of *Riordan* discloses a system architecture that in relevant part, includes a customer terminal 105, a point of service location 115 and a credit card authorization location 165. FIG. 1, however, does not suggest or disclose a merchant node. Inasmuch as the Examiner recognizes point of service location 115 as the clearinghouse node, applicants are perplexed as to exactly what the Examiner considers to be the merchant node. Further, FIG. 2 of *Riordan* includes the same deficiency as FIG. 1 in that FIG. 2 also does not disclose a merchant node. Accordingly, since the Examiner admits that *O'Toole* does not

disclose a merchant node and *Riordan* does not make up for that deficiency, applicants therefore respectfully submit that *Riordan* and *O'Toole* cannot be combined in any manner to obviate claim 8, as amended, or claim 14.

In particular, claim 8 now recites "wherein said network connection devices is coupled to a communications network having a merchant node associated with a merchant of goods or services, a bank node associated with account information pertaining to the user and a clearinghouse node for managing communications received from the communication device." Claim 14 recites "a provider node coupled to said clearinghouse node and said communications device over the network; and a bank node coupled to said clearinghouse node and said provider node over the networks." Applicants respectfully submit that neither *Riordan* nor *O'Toole* teach or suggest this aspect of claims 8 and 14. In addition, inasmuch as claims 9, 10, 12, 13 and 15-17 depend from either claims 8 or 14, applicants respectfully submit that these claims are also not obviated for at least the foregoing reasons.

The Examiner rejected claims 3-7, 18 and 20-23 under 35 U.S.C. §103(a) as being unpatentable over *Riordan* in view of *O'Toole*. With regard to claim 18, as best understood, the Examiner asserts that while *Riordan* does not "specifically recite a clearinghouse receiving user transactional history data with a purchase request," *O'Toole* teaches "a user sending transactional history along with a purchase request (figure 5 and 6; column 9, lines 15-54; column 10, lines 4-38) to a clearinghouse computer and said clearinghouse computer stores said history (figure 4A, item 126)." (Official Action, pg. 6) The Examiner further asserts that *O'Toole* also teaches "a clearinghouse calculating a purchase price or fee (e.g. sales offer or coupon-"discount rate") for goods and services in response to the received transaction history." (*Id.*)

The Examiner, however, has not provided any basis or support in either of the references for rejecting the subject matter which was previously recited in claim 22 and is now incorporated in claim 18. In particular, applicants

respectfully submit that neither *O'Toole* nor *Riordan* teach or suggest "sending settlement information from the clearinghouse node to the communication device, a bank server and a merchant server." Certainly, *O'Toole* could not teach or suggest this aspect of claim 18 because, as admitted by the Examiner, *O'Toole* does not teach or suggest a communication device coupled to a network that includes a merchant node, a bank node and a clearinghouse node. In addition, and as discussed above, applicants respectfully submit that *Riordan* does not teach or suggest a merchant server or node as is recited in claim 18. Thus, for at least the foregoing reasons, claim 18 is not at all obviated by the combination of *Riordan* and *O'Toole*.

Inasmuch as claims 19-21 and 23 depend from claim 18, applicants respectfully submit that these claims are also not obviated for at least the foregoing reasons.

With regard to claims 3-7, applicant's respectfully submit that these claims are not obviated by the combination of *Riordan* and *O'Toole* for at least the reasons set forth above.

Lastly, applicants also respectfully submit that the *Dedrick* reference (U.S. Patent No. 6,151,600) does not make up for the deficiencies in either *O'Toole* or *Riordan*. Therefore, the combination of *Dedrick*, *Riordan* and *O'Toole* also does not obviate any of the claims of the present application.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 15, 2004

Respectfully submitted,

By 

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